

Legislative Analysis



REFINE COURT FEE PROVISIONS FOR JUVENILES

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House Bill 5648 as introduced
Sponsor: Rep. Jim Howell
Committee: Judiciary
First Analysis (3-19-04)

BRIEF SUMMARY: The bill would limit the imposition of statutory minimum costs in juvenile proceedings to cases in which other monetary sanctions are imposed and provide relief for those who can't pay.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact.

THE APPARENT PROBLEM:

Last year, the legislature enacted a large package of bills to increase revenue for various entities in the judicial system by increasing civil filing and motion fees and consolidating the assessments and state-level cost imposed on civil infractions and criminal offenses, resulting in a net increase in the revenue generated by such assessments and costs.

In particular, Public Act 70 of 2003 amended the Code of Criminal Procedure to require a court to order a person convicted of a criminal offense, as a condition of probation, to pay a state minimum cost ranging from \$40 to \$60 if the court had ordered the person to pay any combination of a fine, costs, or applicable assessments. Public Act 71 of 2003 amended the Probate Code to establish the same level of minimum costs for juveniles. However, Public Act 71 did not limit these costs only to persons that the court had ordered to pay fines and/or costs as is the case for adults. Therefore, all juveniles must be ordered to pay these costs, whereas not all adults are so ordered. The result is that juveniles found responsible for a crime are subject to higher financial penalties than an adult convicted of the same offense.

At the request of the Michigan Supreme Court, legislation is being offered to correct the situation.

THE CONTENT OF THE BILL:

Public Act 71 of 2003 amended the Probate Code to require a court to order a juvenile, as a condition of probation and in addition to other allowable fines and costs, to pay costs of not less than \$60 if the juvenile is found responsible for a felony, not less than \$45 for a serious misdemeanor or specified misdemeanor (as defined by the Crimes Victim's Rights Act and the Crime Victim's Rights Services Act), and not less than \$40 for other misdemeanor offenses.

The bill would amend the Probate Code to restrict payment of the above costs to those juveniles ordered to pay any combination of fines, costs, restitution, assessments, or payments arising out of the same juvenile proceeding.

Further, a juvenile could, under the bill, petition the court for a remission of the payment of any unpaid portion of the minimum state cost **if** he or she was not in willful default of the payment. If the court determined that payment of the amount due would impose a manifest hardship on the juvenile or his or her immediate family, the court could remit all or part of the amount of the minimum state cost due or modify the method of payment.

MCL 712A.18 and 712A.18M

BACKGROUND INFORMATION:

The bill is identical to the H-2 substitute of Senate Bill 437 as reported by the House Judiciary Committee earlier this session.

FISCAL INFORMATION:

The bill would have an indeterminate fiscal impact. Although enactment of a hardship excuse could in theory reduce revenues for the Justice System Fund, which funds a variety of judiciary and other justice system programs, the revenue estimates incorporated into the FY 2003-2004 budget assumes the bill's provisions to be in place.

ARGUMENTS:

For:

A discrepancy currently exists in the manner that the minimum state costs imposed for felony and misdemeanor convictions are imposed on juveniles and adults. Currently, all juveniles found responsible for a criminal offense must be ordered to pay this fee, whereas the minimum state costs only apply to adults convicted of a crime who also have been ordered to pay some combination of fines and costs. In effect, juveniles may be more harshly punished than an adult convicted of the same crime. The bill would therefore conform the provisions of the Probate Code regarding the minimum state costs to the Code of Criminal Procedure.

Further, since many juveniles are too young to work, their families must absorb the costs of their adjudication. This can be expensive, especially if restitution is also ordered. Under the bill, a juvenile could petition the court to rescind any outstanding balance of this fee, providing that he or she had not defaulted on the payments. A court could then remit all or part of the amount due or modify the method of payment if it determined that payment of the fee would result in a hardship on the juvenile or his or her family.

Reportedly, the State Court Administrative Office (SCAO) had based its original revenue estimates derived from the minimum state costs on those cases where monetary sanctions

would be imposed. Therefore, the bill's provisions should not result in a loss of expected revenue.

POSITIONS:

A representative of the Michigan State Court Administrative Office (SCAO) testified earlier this legislative session in support of Senate Bill 437, which is identical to House Bill 5648.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.